

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TENTH STREET BUILDING)	
CORPORATION,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 03-359E
)	
BP PRODUCTS NORTH AMERICA)	MAURICE B. COHILL, JR.
INC., f/k/a and successor to BP OIL)	
COMPANY, f/k/a and successor to)	
BORON OIL COMPANY, and DONALD)	
TRAPP,)	
Defendants)	ELECTRONICALLY FILED

JOINT MOTION FOR AMENDMENT OF CASE MANAGEMENT ORDER

Plaintiff Tenth Street Building Corporation, by its attorneys, Knox McLaughlin Gornall & Sennett PC, defendant BP Products North America, Inc., f/k/a and successor to BP Oil Company, f/k/a and successor to Boron Oil Company, by its attorneys McDonald, Illig, Jones & Britton, LLP, and defendant Donald Trapp, by his attorneys, Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., file this Joint Motion for Amendment of Case Management Order and state the following in support thereof:

1. On September 17, 2003, plaintiff Tenth Street Building Corporation (hereinafter "Tenth Street") filed a Complaint against defendants BP and Donald Trapp (hereinafter "Trapp") in the Court of Common Pleas of Erie County, Pennsylvania at No. 13842-03, asserting a federal claim under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., a state statutory claim under the Storage Tank and spill Prevention Act, 35 P.S. § 6021.101 et seq., and state common law claims for breach of lease, negligence, trespass and interference with contractual relations. (Complaint).

2. On October 2, 2003, a copy of the Complaint filed in the Court of Common Pleas of Erie County, Pennsylvania at No. 13842-03 was served upon the Prentice-Hall Corporation System, Inc. as registered agent in Ohio for BP Products North America, Inc.

3. On November 3, 2003, defendant BP filed a Notice of Removal removing this civil action from the Court of Common Pleas of Erie County, Pennsylvania to the United States District Court for the Western District of Pennsylvania. (Notice of Removal; Affidavit of Service of Notice of Removal and Filing of Copy of Notice of Removal).

4. This civil action was stayed pending a determination of claim eligibility and coverage under the Pennsylvania Underground Storage Tank Indemnification Fund from November 12, 2003 to September 7, 2005, when the stay was lifted by Order of Court.

5. On December 1, 2005, this Honorable Court issued a Case Management Order establishing a pretrial schedule and directing that all fact discovery be completed on or before May 3, 2006, expert discovery be completed on or before August 1, 2006, and with dates for the filing of pretrial narrative statements and dispositive motions thereafter.

6. The parties have actively pursued discovery in this case, including the exchange of written discovery and responses and the collection of voluminous documents from third parties and government agencies by subpoena, but need additional time within which to complete their remaining discovery, by depositions and otherwise, in order to properly prepare their respective cases for trial.

7. No prior requests to amend a case management order have been filed by any party.

8. In view of the additional discovery required by all parties, plaintiff Tenth Street Building Corporation and defendants BP Products North America, Inc. and Donald Trapp request an extension of time in which to complete fact discovery until August 28, 2006, and the issuance of an Amended Case Management Order consistent therewith.

WHEREFORE, plaintiff Tenth Street Building Corporation and defendants BP Products North America, Inc. and Donald Trapp respectfully request this Honorable Court to extend the time for completion of fact discovery until August 28, 2006 and to issue an Amended Case Management Order consistent therewith.

Respectfully submitted,

s/Richard A. Lanzillo

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Dated: May 3, 2006
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